

## **REMARKS**

[0002] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-18 are presently pending. Claims amended herein are 1,4,9,13 and 17. Claims withdrawn or cancelled herein are none. New claim added herein is 18.

### **Claim Amendments and Additions**

[0003] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1,4,9,13 and 17 herein.

[0004] Furthermore, Applicant adds new claim 18 herein, which incorporates features from claims 1, 4, and 6. Therefore, claim 18 is allowable for, at least, the same reasons as claims 1, 4, and 6 is allowable plus it is allowable because includes the combination of claimed features from each one. This new claim is fully supported by Application and therefore do not constitute new matter.

## **Formal Matters**

**[0005]** This section addresses any formal matters (e.g., objections) raised by the Examiner.

### **Oath/Declaration**

**[0006]** The Examiner indicates the following:

### **Oath/Declaration**

6. The oath or declaration is defective. It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in **37 C.F.R. §1.56**.

**[0007]** Applicant acknowledges this objection. Presuming that the objection is valid, Applicant will be submitting, subsequent to this response and before issuance, a new declaration or oath which remedies the alleged defectiveness of the already submitted one.

## **Specification**

**[0008]** The Examiner indicates the following:

### **Specification Objections**

8. The disclosure is objected to because of the following informalities:

Page 2, of the specification lists a function " $X = s + w(M)$ ," but fails to identify all of its terms

Page 9, of the specification makes reference to "DC" subband, but does not define, "DC"

Page 10, par. 34, uses both a semi-colon and a comma

Page 12, second sentence, the value of "N" is unknown and unsure of

Page 13, equation 1, is not listed on or near page 13

Page 14, par. 54, there are commas missing between the terms weighted linear statistical

Page 17, par. 68, the second term "subject good" is not completely in quotations

Page 20 and 22, Equation 1 is not on the listed pages

Furthermore, page 15 and 22 of the specification lists an equation to determine the "rational" statistics vector,  $h$ , but they are two different functions

The Examiner respectfully requests that the Applicant checks the specification for any other informalities that may be found. Appropriate correction is required.

**[0009]** Applicant acknowledges these objections. Applicant will be submitting a response forthwith which will to correct the informalities as noted by the Examiner. If the Examiner picks up this response before receiving the subsequent response indicated here, please contact the understand representative.

## **Claims**

**[0010]** The Examiner indicates the following:

### **Claim Objections**

9. **Claims 4, 9, 10, 11, 12, and 17 are objected to** because of the following informalities:  
In regards to claim 9, there should be colon following the word comprising. Also, with claim 9, the phrase, "watermarking a digital good with a watermark" is unclear. Perhaps, what is meant is "marking a digital good with a watermark."

In regards to claims 4 and 17, none of the prior art teaches the listed hashing equation; therefore, this Examiner will object to it. Claims 10, 11, and 12 are not in proper dependent form. Appropriate correction is required.

**[0011]** With regard to claim 9, Applicant amends accordingly to correct the informality. Claims 10 and 11 have been cancelled; therefore, the rejection does not apply. With regard to claim 12, Applicant asks the Examiner to provide some grounds and reasoning for the objection. Applicant submits that claim 12 is in a proper format.

**[0012]** With regard to claims 4 and 17, Applicant must ask the Examiner to provide grounds and reasoning for the objection. Applicant requests that the Examiner cite the specific statute, rule, and/or procedure upon which the objection relies.

### **Non-Statutory Double Patenting**

[0013] Applicant reserves the right to submit one or more Terminal Disclaimers to overcome the Office's non-statutory double-patenting rejection.

## **Substantive Matters**

### **Claim Rejections under §112**

[0014] Since claims 7 and 10 are canceled herein, Applicant submits that these rejections are not applicable anymore and asks that they be withdrawn.

### **Claim Rejections under §101**

[0015] Claims 7 and 10-11 are rejected under 35 U.S.C. §101. In light of the claim cancellations presented herein, Applicant respectfully submits that these claims comply with the patentability requirements of §101 and that the §101 rejections should be withdrawn.

[0016] If the Examiner maintains the rejection of these claims, then the Applicant requests additional guidance as to what is necessary to overcome the rejection.

### **Claim Rejections under § 102 and 103**

[0017] The Examiner rejects claims 1-17 under §102. For the reasons set forth below, the Examiner has not shown that cited references anticipate the rejected claims.

**[0018]** In addition, the Examiner rejects claims 3 and 14 under §103. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

**[0019]** Accordingly, Applicant respectfully requests that the §102 and §103 rejections be withdrawn and the case be passed along to issuance.

**[0020]** The Examiner's rejections are based upon the following references alone and/or in combination:

- **"V '873":** *Vankatesan, et al.*, US Patent No. 7,095,873 (issued August 22, 2006)
- **"V-037331":** *Venkatesan, et al.*, WO 2002/037331 (published May 10, 2002);
- **Inoue:** *Inoue, et al.*, US Patent No. 6,477,276 (issued November 5, 2002);
- **"V-1605":** *Venkatesan, et al.*, US Patent Publication No. 2004/0001605 (published January 1, 2004); and
- **Fridrich:** *Fridrich, et al.*, "Robust Hash Function for Digital Watermarking", March 2000.

### **Overview of the Application**

**[0021]** The Application describes a technology for facilitating watermarking of digital goods. The technology performs watermark embedding and the detection of possibly embedded watermarks based upon rational statistics of multiple regions of a digital good.

## **Cited References**

[0022] The Examiner cites V '873, V-037331, Inoue, and V-1605 as the primary references in the anticipation- and obviousness-based rejections. The Examiner cites Fridrich as a secondary reference in the obviousness-based rejections.

### **V '873**

[0023] V'873 describes a technology for facilitating watermarking of digital goods. At least one implementation, described herein, performs quantization based upon semi-global characteristics of multiple regions of the digital good. Such regions are permissively overlapping.

### **V-037331**

[0024] V-037331 is WIPO publication of the patent application that eventually issued at US Patent No. 6,671,407 on December 30, 2003. It describes system has an image store, a digital hashing unit, and a watermark encoder. A digital image hashing unit computes a hash value representative of a digital image in such a manner that visually similar images hash to the same hash value and visually distinct images hash to different values. The hash value is stored in an image hash table and is associated via the table with the original image. This image hash table can be used to index the image storage. A watermark encoder computes a watermark based on the hash value and a

secret. Using both values renders the watermark resistant to BORE (Break Once, Run Everywhere) attacks because even if the global watermark secret is discovered, an attacker still needs the hash value of each image to successfully attack the image. The system can be configured to police the Internet to detect pirated copies. The system randomly collects images from remote Web sites and hashes the images using the same hashing function. The system then compares the image hashes to hashes of the original images. If the hashes match, the collected image is suspected as being a copy of the original.

Inoue

[0025] Inoue describes an apparatus for embedding information in a signal includes a band dividing device, a block divider, a quantization portion, a signal replacement portion, a mean difference addition portion, a mean calculation portion, and a band synthesis portion. The band dividing device divides the signal into transform coefficients over a plurality of frequency bands. The block divider divides one frequency band into a plurality of blocks in accordance with a previously determined block size. The quantization portion calculates for each block, a mean value  $M$  of the transform coefficients in the block, and subjects the mean value  $M$  to linear quantization, using a previously determined quantization step-size  $Q$  to calculate a quantization value. The signal replacement portion replaces the quantization value for each block, on the basis of the quantization value and the value of the information to be embedded. The mean difference addition portion subjects the replaced quantization value, for each block, to inverse linear quantization using the quantization step-size  $Q$  to



calculate a mean value  $M'$ , and adds a difference DM between the mean value  $M'$  and the mean value M to all the transform coefficients in the block. The mean calculation portion calculates a mean value LM of the transform coefficients in the frequency band after the addition of the difference DM. The band synthesis portion reconstructs a signal in which the information has been embedded using the frequency band after the addition of the difference DM and the other frequency bands.

V-1605

[0026] V-1605 is merely the U.S. publication of the patent application from which V'873. Therefore, it substantive content should be identical.

Fridrich

[0027] Fridrich is an article on the topic of "Robust Hash Functions for Digital Watermarking".

Each of the following are commonly owned and have at least one common inventor: V'873, V-037331, and V-1605.

## **Anticipation Rejections**

[0028] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon V'873**

[0029] The Examiner rejects claims 1-17 under 35 U.S.C. § 102(a) as being anticipated by V'873. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

[0030] Applicant submits that, according to 35 U.S.C. § 102(a), V'873 does not anticipate these claims because V'873 is not proper prior art. V'873 issued as a patent after the effective filing date of the instant application. V'873 issued on August 22, 2006 while the instant application was filed on January 23, 2004.

[0031] Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection for each of the claims 1-17.

---

<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

[0032] Because V'873 is not valid prior art, Applicant submits that claim 15 is allowable merely because there is no other prior-art based rejection of claim 15 in this Action.

**Based upon V-37331**

[0033] The Examiner rejects claims 1, 2, 5, 6, 8, 9, 11, 12, 13, and 16 under 35 U.S.C. § 102(b) as being anticipated by V-37331. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

**Independent Claim 1**

[0034] Applicant submits that V-37331 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- calculating **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**
- quantizing the **rational statistics;**
- marking the digital good with the **quantized rational statistics** of the plurality of the regions.

[0035] V-37331 is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0036] Furthermore, V-37331 is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

[0037] Consequently, V-37331 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 2, 5, 6, and 8*

[0038] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

*Independent Claim 9*

[0039] Applicant submits that V-37331 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- such **quantization is based upon semi-global characteristics of regions** of the digital good, wherein such semi-global characteristics are **generated via a hashing function employing a quotient of at least two weighted linear combinations of statistics of the regions** of the digital good.

[0040] Although the Examiner says that V-37331 discloses this and cites particular passages, Applicant submits that V-37331 does not disclose these features. Indeed, V-37331 is completely silent on the above-highlighted features of the claim.

[0041] In the subsequent action, Applicant asks the Examiner to point-out with particularity where V-37331 discloses above-highlighted features of the claim.

[0042] Consequently, V-37331 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claim 12*

[0043] This claim ultimately depends upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of this claim may also be allowable for additional independent reasons.

Independent Claim 13

[0044] Applicant submits that V-37331 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- region-statistics calculator configured to calculate **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**
- region quantizer configured to quantize the **rational statistics;**
- a digital-goods marker configured to generate the digital good with the **quantized rational statistics** of the plurality of the regions.

[0045] V-37331 is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0046] Furthermore, V-37331 is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

[0047] Consequently, V-37331 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 16 and 17*

[0048] These claims ultimately depend upon independent claim 13. As discussed above, claim 13 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

[0049] Furthermore, because the Examiner admits (Action, p. 47 paragraph 9), "none of the prior art teaches the listed hashing equation," claim 17 is allowable.

**Based upon Inoue**

[0050] The Examiner rejects claims 1, 6, 7, 8, 9, 10, 11, 12, 13, and 16 under 35 U.S.C. § 102(b) as being anticipated by Inoue. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0051] Applicant submits that Inoue does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- calculating **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**
- quantizing the **rational statistics;**
- marking the digital good with the **quantized rational statistics** of the plurality of the regions.

[0052] Inoue is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0053] Furthermore, Inoue is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.



[0054] Consequently, Inoue does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 6, 7, and 8

[0055] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Independent Claim 9

[0056] Applicant submits that Inoue does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- such **quantization is based upon semi-global characteristics of regions** of the digital good, wherein such semi-global characteristics are **generated via a hashing function employing a quotient of at least two weighted linear combinations of statistics of the regions** of the digital good.

[0057] Applicant submits that Inoue does not disclose these features. Indeed, Inoue is completely silent on the above-highlighted features of the claim.

Furthermore, the Examiner did not point-out where Inoue discloses the features of this claim. Instead, this rejection is lumped-in with the rejection of independent claim 1.

**[0058]** In the subsequent action, Applicant asks the Examiner to point-out with particularity where Inoue discloses above-highlighted features of the claim.

**[0059]** Consequently, Inoue does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claim 12*

**[0060]** This claim ultimately depends upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of this claim may also be allowable for additional independent reasons.

*Independent Claim 13*

**[0061]** Applicant submits that Inoue does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- region-statistics calculator configured to calculate **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**
- region quantizer configured to quantize the **rational statistics;**
- a digital-goods marker configured to generate the digital good with the **quantized rational statistics** of the plurality of the regions.

[0062] Inoue is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0063] Furthermore, Inoue is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

[0064] Consequently, Inoue does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 16 and 17

[0065] These claims ultimately depend upon independent claim 13. As discussed above, claim 13 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

[0066] Furthermore, because the Examiner admits (Action, p. 47 paragraph 9), "none of the prior art teaches the listed hashing equation," claim 17 is allowable.

Based upon V-1605

[0067] The Examiner rejects claims 1-14 and 16 under 35 U.S.C. § 102(b) as being anticipated by V-1605. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

Independent Claim 1

[0068] Applicant submits that V-1605 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- calculating **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational**

**statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**

- quantizing the **rational statistics**;
- marking the digital good with the **quantized rational statistics** of the plurality of the regions.

[0069] V-1605 is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0070] Furthermore, V-1605 is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

[0071] Consequently, V-1605 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 2-8*

[0072] These claims ultimately depend upon independent claim 1. As discussed above, claim 1 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally,

some or all of these claims may also be allowable for additional independent reasons.

[0073] Furthermore, because the Examiner admits (Action, p. 47 paragraph 9), "none of the prior art teaches the listed hashing equation," claim 4 is allowable.

Independent Claim 9

[0074] Applicant submits that V-1605 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- such **quantization is based upon semi-global characteristics of regions** of the digital good, wherein such semi-global characteristics are **generated via a hashing function employing a quotient of at least two weighted linear combinations of statistics of the regions** of the digital good.

[0075] Although the Examiner says that V-1605 discloses this and cites particular passages, Applicant submits that V-1605 does not disclose these features. Indeed, V-1605 is completely silent on the above-highlighted features of the claim.

[0076] In the subsequent action, Applicant asks the Examiner to point-out with particularity where V-1605 discloses above-highlighted features of the claim.

[0077] Consequently, V-1605 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claim 12*

[0078] This claim ultimately depends upon independent claim 9. As discussed above, claim 9 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of this claim may also be allowable for additional independent reasons.

*Independent Claim 13*

[0079] Applicant submits that V-1605 does not anticipate this claim because it does not show or disclose the, at least, following features as recited in this amended claim (with emphasis added):

- region-statistics calculator configured to calculate **rational statistics** of one or more the regions of the plurality, so that the statistics of a region are representative of the region, wherein the calculating comprises **generating the rational statistics of one or more regions of the plurality via a hashing function having quotient of two weighted, linear, statistical combinations and wherein the rational statistics are semi-global characteristics;**

- region quantizer configured to quantize the **rational statistics**;
- a digital-goods marker configured to generate the digital good with the **quantized rational statistics** of the plurality of the regions.

[0080] V-1605 is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0081] Furthermore, V-1605 is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

[0082] Consequently, V-1605 does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 16 and 17*

[0083] These claims ultimately depend upon independent claim 13. As discussed above, claim 13 is allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.



[0084] Furthermore, because the Examiner admits (Action, p. 4 7 paragraph 9), "none of the prior art teaches the listed hashing equation," claim 17 is allowable.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0085] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

### **Based upon V-037331 and Fridrich**

[0086] The Examiner rejects claims 3 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Venkatesan. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

[0087] As indicated above, V-37331 is completely silent and thus does not disclose the use of rational statistics. Rational statistics are clarified by the amendments herein and are discussed in the Application in paragraphs [0054]-[0059], at least.

[0088] Furthermore, V-37331 is completely silent and thus does not disclose the use of statistics that have semi-global characteristics. Semi-global

characteristics are clarified by the amendments herein and are discussed in the Application in paragraphs [0060]-[0063], at least.

**[0089]** Fridrich does not remedy the noted gaps in V-37331's disclosure.

**[0090]** As shown above, the combination of V-37331 and Fridrich does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

### **Forthcoming § 103 rejection**

**[0091]** In light of the explanation and discussion provided above, in response to the § 102(e) rejection of all of the claims of this patent application, Applicant is preemptively responding to possible forthcoming obviousness rejections.

**[0092]** If, in the next Action, the Examiner chooses to include V-1605 as one of its cited references upon which a forthcoming § 103 rejection is based, Applicant may respond by asking for the reference to be disqualified under §103(c) as V-1605 only qualifies as prior art under §102(e).

**[0093]** If the above referenced situation does occur, Applicant may submit a response containing text akin to the following:

The Applicant respectfully requests that the Examiner remove U.S. Patent Application Publication 2004/0001605 as a prior art reference in prosecution of the instant application as a result of the following statement as set forth in the Manual of Patent Examining Procedure, 706.02(I)(2) II,

The instant application and the cited reference, U.S. Patent Application Publication 2004/0001605, were, at the time the invention of the instant application was made, subject to an obligation of assignment to Microsoft Corporation. Applicant respectfully submits that the cited art, U.S. Patent Application Publication 2004/0001605, only qualifies as prior art under § 102(e), and shared a common assignee with the instant application at the time the subject matter of the instant application was conceived. Thus, U.S. Patent Application Publication 2004/0001605, cited in combination with [yet-to-be cited art], U.S. Patent Application Publication 2004/0001605, under § 103(a) should be disqualified under § 103(c).

### **Dependent Claims**

[0094] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## **Conclusion**

[0095] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Attorneys for Applicant

/KaseyChristie40559/ Dated: 07/11/2008  
Kasey C. Christie (kasey@leehayes.com; x232)  
Registration No. 40559  
Assistant: Carly Bokarica (carly@leehayes.com; x264)  
Customer No. **22801**

Telephone: (509) 324-9256  
Facsimile: (509) 323-8979  
www.leehayes.com